

MELINDA HAAG (CABN 132612)
United States Attorney

MIRANDA KANE (CABN 150630)
Chief, Criminal Division

DANIEL R. KALEBA (CABN 223789)
Assistant United States Attorney

~~CONFIDENTIAL~~

150 Almaden Boulevard, Suite 900
San Jose, CA 95113
Telephone: (408) 535-5061
Fax: (408) 535-5066

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
JOHN D. TERZAKIS,)
ROBERT E. ESTUPINIAN,)
)
Defendants.)

No. CR 09-01212 DLJ

STIPULATION AND []
ORDER REGARDING SCHEDULE FOR
SENTENCING

UNITED STATES OF AMERICA,)
)
Plaintif,)
)
v.)
)
PETER YE)
)
Defendant.)

Related Case No. CR 10-00044 DLJ

With the agreement of the parties, and with the consent of defendants John Terzakis,
Robert Estupinian, and Peter Ye (collectively, the “defendants”), the Court enters the following
order regarding scheduling in the above referenced matters:

SCHEDULING ORDER
CR 09-01212 DLJ
CR 10-00044 DLJ

1 The defendants have individually entered plea agreements with the government to resolve
 2 the above referenced matters. Pursuant to the terms of the plea agreements, the parties agree that
 3 the Court will resolve certain factual issues relevant to the calculations provided for in the United
 4 States Sentencing Guidelines. In particular, the Court is asked to decide the loss amount
 5 attributable to each defendant arising from the scheme to defraud (U.S.S.G. § 2B1.1), as well as
 6 the leadership roles of defendants John Terzakis and Robert Estupinian (U.S.S.G. § 3B1.1). Mr.
 7 Estupinian and Mr. Ye also reserved the right to challenge the application of the abuse of
 8 position of trust enhancement (U.S.S.G. § 3B1.3).

9 The matters are currently set for sentencing on June 28, 2012. While the parties have
 10 been working to resolve the disputed factual issues, especially as it relates to the determination of
 11 the loss amount, it is apparent that an evidentiary hearing will be needed prior to the sentencing
 12 of the individual defendants. Therefore parties stipulate and propose the following schedule for
 13 sentencing:

14		
15	June 28, 2012	Evidentiary hearing on Sentencing Guidelines issues. The government
16		anticipates calling a Special Agent from the Federal Bureau of
17		Investigation, as well as up to four Vesta victims/depositors. Each
18		defendant may call its own witnesses. The government requests three
19		hours for the presentation of its evidence, and approximately three hours
20		for defense cross-examination and presentation of evidence.
21	July 26, 2012	Hearing on Sentencing Guidelines issues. The parties respectfully request
22		the Court would issue its rulings on this date with respect to the disputed
23		Sentencing Guidelines issues. The parties agree that any further evidence
24		to submit for the Court's consideration of the Sentencing Guidelines issues
25		shall be filed with the Court no later than July 19, 2012.
26	August 23, 2012	Draft Presentence Reports for each defendant distributed to the parties.
27	September 27, 2012	Victim allocution and sentencing of defendant John Terzakis.
28	October 11, 2012	Sentencing of defendant Robert Estupinian.
	October 25, 2012	Sentencing of defendant Peter Ye.

//

//

//

1 The proposed schedule takes into consideration the time needed by the defense to prepare
2 for the evidentiary hearing, as well as the availability of counsel over the summer months.

3
4
5 STIPULATED:

6
7 DATED: May 15, 2012

/s/

ROBERT E. LYONS
Attorney for Defendant John D. Terzakis

8
9
10 DATED: May 15, 2012

/s/

JAMES T. REILLY
Attorney for Defendant Robert E. Estupinian

11
12
13 DATED: May 15, 2012

/s/

SHAWN R. PARR
Attorney for Defendant Peter C.Y. Ye

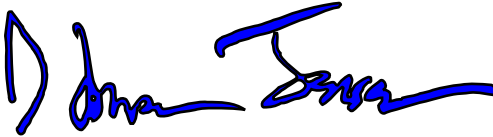
14
15
16 DATED: May 15, 2012

/s/

DANIEL R. KALEBA
Assistant United States Attorney

17
18
19
20 IT IS SO ORDERED that sentencing for the above referenced matters shall be scheduled
21 as set forth above.

22
23 DATED: May GG, 2012



D. LOWELL JENSEN
United States District Judge